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OFFICE OF PETITIONS

In re Patent No. 7,067,606 :
Issued: June 27, 2006 :
Application No. 10/620,644 : PATENT TERM ADJUSTMENT
Filed: July 16, 2003 :
Dkt. No.: 883933.0088 :

This is a decision on the "APPLICATION FOR PATENT TERM
ADJUSTMENT UNDER 37 C.F.R. 1.705(d)," filed July 13, 2006.

The application for patent term adjustment ("PTA") under 37 CFR
1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Patent No.
7,067,606 on June 27, 2006. The instant request for
reconsideration was timely filed July 13, 2006 in accordance
with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 260
days. Patentees argue that the application is entitled to an
adjustment of 419 days and that there was no failure to
engage in reasonable efforts to conclude prosecution by
applicants.

A review of the application history reveals that an adjustment
of 338 days under 37 CFR 1.702(a)(1) can be attributed to the
Office. At the time of mailing of Notice of Allowance, there
were no further delays attributed to the Office.

Notice of Allowance was mailed in the instant case on October 5,
2004. Notice of Abandonment was mailed March 3, 2005. The
application was held abandoned for failure to timely submit a
proper reply to the Notice of Allowance. A petition to withdraw
the holding of abandonment was filed March 24, 2005 and granted
November 30, 2005. The holding of abandonment was withdrawn on
the basis that applicants' reply to the Notice of Allowance
purportedly filed January 4, 2005 bore a certificate of mailing
in accordance with 37 CFR 1.8. While the response to the Notice
of Allowance was deemed timely due to the fact that it bore a
certificate of mailing in accordance with 37 CFR 1.8, the date
of actual receipt of the reply to the Notice of Allowance is

used for all other purposes, in particular, calculation of PTA. See, 37 CFR 1.8(a) and 37 CFR 1.703(f). Thus, the actual date of receipt of the reply to the Notice of Allowance, March 24, 2005, must be used in the calculation of PTA.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 338 days, as indicated on the patent.

The required fee of \$200.00 for an application for patent term adjustment has been submitted.

Any request for reconsideration of this decision must be submitted within TWO MONTHS of the mail date of this decision. Extensions of time under 37 CFR 1.136 are not available.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.



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